

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JANICE SAGEN,

Case # 0071012483

Charging Party,

ORDER

-v-

BURLINGTON NORTHERN SANTE FE,

Respondent.

Janice Sagen (Sagen) filed a complaint with the Department of Labor and Industry (Department) alleging that Burlington Northern Santa Fe (BNSF) discriminated against her on the basis of her gender and perceived disability when she was placed on furlough. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Sagen's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Sagen filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 20, 2008.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED that Janice Sagen's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Burlington Northern Santa Fe.

DATED this ____ day of March, 2008.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of March 2008.

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